Proposed Amendments for 1998 to the Municipal Government Act

Alberta
Municipal Affairs

ALBERTA
MUNICIPAL AFFAIRS

Office of the Minister
Responsible for Housing, Consumer Affairs, Registries
and Local Government Services
MLA, Sherwood Park

March 1998

It gives me pleasure to present a revised version of *Proposed Amendments for 1998 to the Municipal Government Act*, which was first published as a consultation document in September 1997. At that time, stakeholders were invited to send their comments on a set of proposed amendments being considered for possible introduction during the 1998 Spring Sitting of the Legislative Assembly.

The response from Albertans to the earlier document has proved invaluable. Some 133 municipalities, agencies, organizations and individuals took time to share their thoughts on the proposals and suggest other possible changes to the Act. I am grateful to all who participated in this process as the opinions of practitioners are essential in determining how the Act may best be improved to meet the needs of Alberta municipalities and their residents.

Close account has been taken of the submissions received and appropriate changes made to the proposed amendments. As well, a number of suggested additional amendments to the Act have been incorporated while others may be considered subsequently for possible enactment at some later date.

This document reflects the results of the review to date and is your record of the proposed amendments to the Municipal Government Act which will now be brought to the attention of Members of the Legislative Assembly.

Iris Evans

424 Legislature Building, Edmonton, Alberta, Canada T5K 2B6 Telephone 403/427-3744, Fax 403/422-9550
116B, 937 Fir Street, Sherwood Park, Alberta, Canada T8A 4N6 Telephone 403/417-IRIS, Fax 403/417-4748

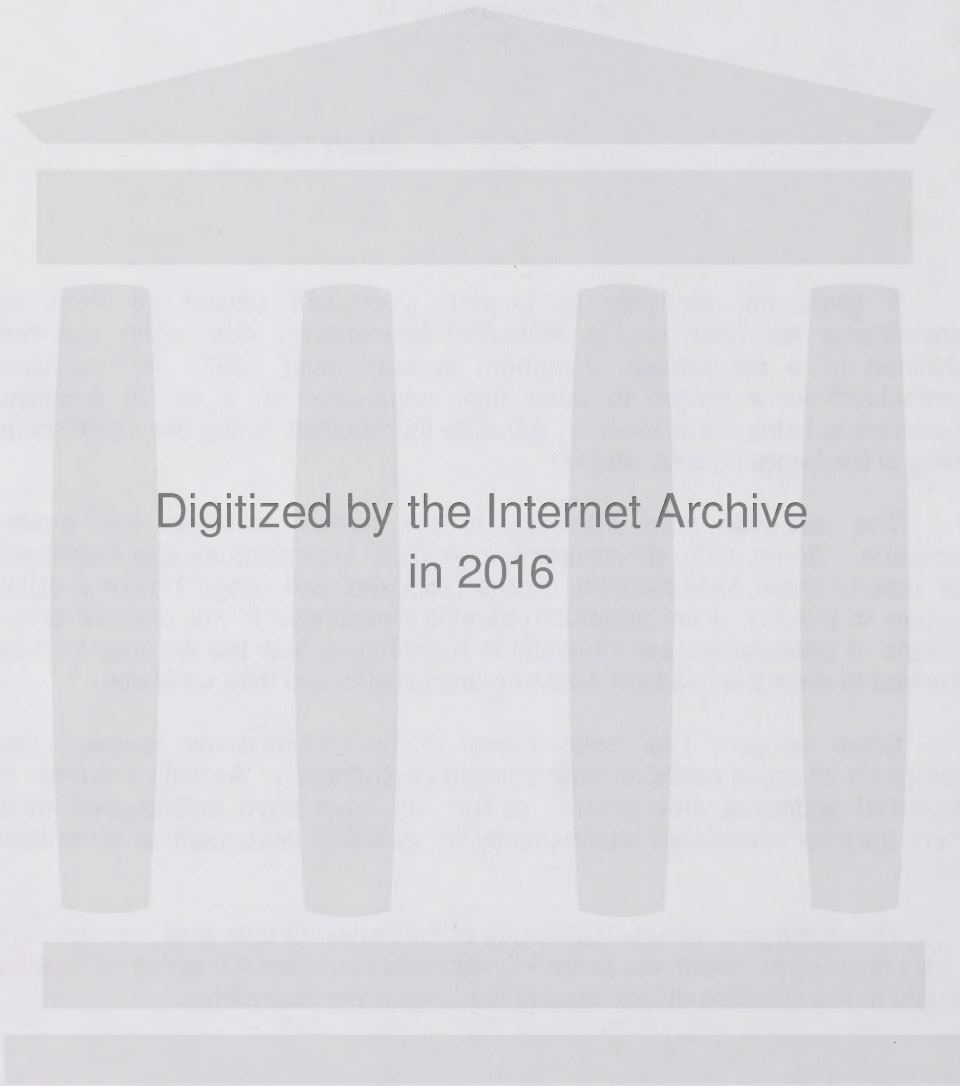
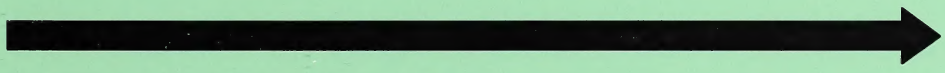


Table of Contents

Proposed Amendments

Relating to

Finance and Administration



1 Set Taxi Tariffs

The former *Municipal Government Act (MGA)* provided municipal councils with the specific statutory authority to regulate taxis and set taxi tariffs. However, the new *MGA* grants general rather than specific powers. Some municipal councils have set tariffs by using the general power to pass bylaws for municipal purposes respecting transport and transportation systems [section 7(d)].

A complaint that taxi fares were being fixed resulted in the Competition Bureau (Industry Canada) reviewing the regulatory arrangement that governs taxis in Alberta. The federal *Competition Act* prohibits price fixing, except where there is specific statutory authority to regulate activities and to set tariffs. In the view of the federal Competition Bureau, the general powers of the *MGA* are not specific enough to support a defence of the legislation and therefore a municipality's authority to set taxi tariffs could be challenged.

It is proposed that section 8 be amended to allow a council to pass a bylaw to set fees related to the hire of taxis and limousines.

2 Third Party Maintenance Agreements for Ex-Forestry Roads

Alberta Transportation and Utilities intends to repeal all of its forestry road regulations within the next year. Alberta Transportation and Utilities currently has a number of agreements with resource companies, under which the latter agree to bear the cost of maintaining forestry roads. One such maintenance agreement expired on September 30, 1997.

When the regulations are repealed and the forestry road agreements expire, responsibility for the administration and maintenance of the roads will devolve to the municipalities pursuant to section 18, which states that "subject to this or any other Act, a municipality has the direction, control and management of all roads within the municipality."

The *MGA* does not, however, allow municipalities to enter into forestry road maintenance agreements with third parties.

It is proposed that provisions be added following section 27 to reflect the following:

a) to allow municipalities to enter into agreements with third parties regarding the commercial or industrial use of a road that is or was designated as a forestry road,

b) ***the agreement could require the third party to maintain the road to standards specified in the agreement,***

c) ***the agreement would not prohibit a person from using the road for purposes other than for commercial or industrial purposes, but may authorize the third party to allow others to use the road for commercial and industrial purposes and to charge others for such use,***

d) ***disputes regarding the agreement would be referred to the Minister of Municipal Affairs, and***

e) ***unauthorized use of the road would result in a contravention and be subject to a penalty based on a proportion of the agreement holder's cost of maintaining the road including capital improvements.***

3 Municipal Subsidiaries

The *MGA* is unclear as to whether a municipal subsidiary should be treated as a municipal utility or a non-municipal utility. Municipal public utilities are not subject to the *Public Utilities Board Act* except on a complaint basis or if the municipality passes a bylaw to bring the utility under that *Act*. Non-municipal utilities are subject to that *Act*.

The Province enacted the *Aqualta Inc. Regulation (Alberta Regulation 120/97)* in June 1997, which specifically removed Aqualta Inc., a wholly owned subsidiary of Epcor, which is itself a municipal corporation of the City of Edmonton, from the Public Utilities Board's jurisdiction within the City of Edmonton. As a result, the City continues to set the water rates for Edmonton residents while the Board sets the rates for the regional customers of Aqualta Inc.

It is proposed that provisions be added following section 47 to reflect the following:

a) ***sections 43 to 47 would apply in respect of a utility service provided by Aqualta Inc.,***

b) ***the jurisdiction of the Public Utilities Board would not apply in the case of a utility service owned or operated by Aqualta Inc. and provided within the boundaries of the City of Edmonton, and***

c) ***any dispute between a regional services commission and Aqualta Inc. with respect to rates, tolls or charges for a service that is a public utility, compensation for a facility acquired by the commission that is used to provide a public utility, or the commission's use of any road, square, bridge, subway or watercourse to provide a public utility, can be submitted to the Public Utilities Board.***

4 Imposition of Additional Taxes - Excess Liabilities

Cabinet dissolution orders often include provisions related to assessment and taxation. The orders can include the imposition of an additional tax by the successor municipality to pay for excess liabilities associated with the dissolved municipality.

The *MGA,* however, also assigns the responsibility for the imposition of such an additional tax to the Minister. There appears to be an overlap in the authority provisions relating to the imposition of additional taxes in the case of dissolutions. Legislative Counsel recommends that the authority should be either with the Lieutenant Governor in Council or the Minister, but not both.

It is proposed that section 134 be amended to allow the Lieutenant Governor in Council, in a dissolution order, to authorize the successor of a dissolved municipality to impose an additional tax to pay for excess liabilities associated with the dissolved municipality.

5 Imposition of Additional Taxes - Borrowing Obligations

Cabinet orders transferring land from one municipal authority into another as a result of the formation, annexation, amalgamation or dissolution of a municipal authority often include provisions related to assessment and taxation. The orders can include the imposition of an additional tax by the new municipal authority to meet the borrowing obligations of the old municipal authority.

The *MGA,* however, also assigns the responsibility for the imposition of such an additional tax to the Minister. There appears to be an overlap in the authority provisions relating to the imposition of additional taxes in these cases. Legislative Counsel recommends that the authority should be either with the Lieutenant Governor in Council or the Minister, but not both.

It is proposed that section 135(4)(a) and (b) be amended to allow the Lieutenant Governor in Council to authorize the new municipal authority to impose an additional tax to meet the borrowing obligations of the old municipal authority in respect of the land associated with the old municipal authority.

6 Time Extension for By-elections

When there is a vacancy on a council or the position of chief elected official becomes vacant, a by-election must be held within 90 days unless the vacancy occurs within a specified time before a general election. However, the time requirements for holding a by-election may be changed by Ministerial Order.

On two occasions during the present council term, an absence of nominations has prevented a municipality from holding a by-election. The municipality has requested a Ministerial Order delaying the by-election to the next general election and adjusting the quorum for the balance of the present term. Without an amendment, an extension of the period for holding a by-election would be inconsistent with the intent of the *MGA* that by-elections should be held unless certain specific circumstances dictate otherwise.

It is proposed that section 166 be amended to state that if a by-election is not held within 90 days of a vacancy occurring, the Minister may by order:

- ***a) set another date for the by-election,***
- ***b) extend the time to the next general election,***
- ***c) reduce the quorum for council,***
- ***d) direct the chief administrative officer to conduct the by-election, and***
- ***e) take any other action the Minister considers necessary.***

7 Secret Ballots

Where the chief elected official or appointees to a council committee or board are to be appointed by council under the *MGA*, it is unclear whether the voting on the appointments can be done through secret ballot.

The chief elected official of cities and towns are elected by a vote of the electorate through the municipal election process. However, the chief elected official of a municipal district, village or summer village is appointed by council (unless a bylaw is passed providing that the official is elected by a vote of the electors).

It is proposed that a new provision be added following section 185 to allow that where council appoints the chief elected official or members to council committees or boards, the voting can be done by secret ballot but the appointment must be confirmed by resolution.

8 Relationship Between Council and the Chief Administrative Officer

The legislation specifies council's role with respect to policy and the chief administrative officer's role with respect to administration. Concerns have been raised regarding the distinction between the role of council and that of the chief administrative officer.

It is proposed that a new provision be added following section 205 to require an annual written performance evaluation of the chief administrative officer by council with respect to implementing council policy and providing administrative leadership.

It is also proposed that section 208 be amended to require the chief administrative officer to advise council and its committees in writing of their legislative responsibilities.

9 Petitions Regarding Road Closure Bylaws

The *MGA* allows electors to petition against any bylaw or resolution that is required to be advertised, except for those under the Planning and Development Part.

A road closure bylaw under the *MGA* requires not only that it be advertised but that a public hearing process take place.

Since the opportunity for public input exists as a result of the hearing process, the need for further petitioning is viewed as unnecessary and redundant.

It is proposed that section 231(1) be amended to exempt section 22 (road closure bylaw) from the petitioning provisions.

10 Categorize Five Year Borrowings as Short Term

The *MGA* outlines the conditions under which municipalities may undertake a capital borrowing. Borrowing is defined as either short term (less than five years) or long term (more than five years). However, the *MGA* does not refer to a term of exactly five years.

Capital borrowings or leases of exactly five years are treated differently by each municipality. For example, capital borrowings or leases not exceeding five years do not require the borrowing bylaw to be advertised.

It is proposed that sections 241 and 257 be amended to include a term of exactly five years and that it be categorized as short term.

11 Repeal Restrictions on Short Term Borrowing

The *MGA* places a limit on the amount of borrowing to finance a capital property for a term not exceeding five years. The limit is 30 percent of the amount that the municipality expects to raise in taxes in the year the borrowing is made. Some municipalities have complained that the 30 percent limit is unclear since it does not specify whether education requisitions, for example, are included in the 30 percent calculation. There is also some question regarding how the 30 percent was derived.

The *Debt Limit Regulation (Alberta Regulation 375/94),* which came into effect January 1, 1995, provides an overall limit on municipal borrowing. Therefore, the continued need for the 30 percent limit in section 257 is questionable.

***It is proposed that section 257(3) be repealed in favour of relying on the* Debt Limit Regulation**.

12 Repeal Restrictions on Loans and Guarantees

The *MGA* places a limit on the amount a municipality can guarantee as a loan between a lender and a non-profit organization. The limit is 30 percent of the expected tax revenue that will be raised in the year the loan or guarantee is made.

The *Debt Limit Regulation* effectively places an overall limit on municipal borrowing. Loans and guarantees to non-profit organizations are already factored into that *Regulation*. If a municipality lends money to a non-profit organization, the amount of the loan is reduced from revenue before calculating the debt limit. In addition, any loan guarantees made by the municipality are added to the municipal debt when comparing the actual debt levels to the debt limit. Therefore, the continued need for a 30 percent limit is questionable.

***It is proposed that section 267 be repealed in favour of relying on the* Debt Limit Regulation.**

Proposed Amendments

Relating to

Assessment and Taxation

13 Access to Building Permit Information

Building permit information assists the assessor in preparing accurate assessments. The assessor is better able to prepare assessments by having improvement details before making an on-site inspection.

Prior to the enactment of the *Safety Codes Act*, assessors encountered very little difficulty in obtaining building permit information from a municipality. However, since its enactment assessors have experienced difficulties in accessing building permit information from accredited agencies under that *Act*.

It is proposed that section 295 be amended to allow the assessor to access information and documents respecting a permit issued under the* Safety Codes Act *and held by an accredited agency hired by that municipality.

14 Exemption for Rural Gas Distribution Systems

The *MGA* exempts from assessment linear property that is part of a rural gas distribution system, except where it provides service to a city, town, village or hamlet under 500 population or where it provides service to major industrial users.

There have been problems regarding the interpretation of what constitutes a rural gas distribution system. The current wording could be interpreted to mean that gas transmission lines owned by municipalities and private utility companies are exempt from assessment.

Proposed amendments would clarify that gas transmission pipelines for rural gas providers that are subject to a franchise area approval under the *Gas Distribution Act (formerly the Rural Gas Act)* would be assessable.

It is proposed that section 298(1)(r) be amended to clarify that gas transmission pipelines for rural gas co-operatives are exempt from assessment [except for the situations outlined in subsections (iii) and (iv)].

It is also proposed that a new provision be added following section 298(r) stating that "linear property forming part of a rural gas distribution system where that gas distribution system is subject to a franchise area approval under the* Gas Distribution Act (formerly the Rural Gas Act)*."

15 Lease, Licence, or Permit on Property Owned by the Crown or a Municipality

The Crown or a municipality may grant a lease, licence or permit on their respective property. The lessee, licensee, or permittee on Crown or municipal property is intended to be the assessed person.

The *MGA* states that the lessee, licensee or permittee can only be the assessed person on Crown or municipal property if there are both land and improvements on the property, but it is not specific about the tax status when the property is vacant.

A proposed amendment would clarify that lessees, licensees or permittees of vacant Crown or municipal land would be assessed and taxed in the same manner as lessees, licensees or permittees of improved Crown or municipal land.

It is proposed that section 304(1)(c) be amended to include a reference to "a parcel of land, an improvement, or a parcel of land and any improvements to it" to capture the three distinct situations.

16 Tax Agreements for Municipal Property

The *MGA* allows a municipality to enter into a tax agreement with an operator of a public utility or of linear property who occupies the municipality's property. The Act also requires the property that is subject to a tax agreement to remain assessable and be included in the equalized assessment. Therefore, this property is subject to the education levy.

A similar process for other municipal properties does not exist. The *Tax Agreement Regulation (Alberta Regulation 147/97)* was enacted to allow a municipality with a population over 100,000 to enter into tax agreements with an assessed person who occupies or manages municipal property (including municipal property held on the municipality's behalf by a non-profit organization) to accept an annual payment in place of taxes. The agreement does not relieve the municipality from the obligation to pay the provincial education levy. However, the agreement between the municipality and the other party can indicate how that amount is to be paid.

It is proposed that:

a) a new provision be added following section 333, similar to section 360, allowing a municipality to enter into a tax agreement with an assessed person who occupies or manages the municipality's

property that would provide the municipality with a payment in place of tax, and

b) section 317(e) be amended so that when a tax agreement is made, the assessment of the municipality's property be reflected in the equalized assessment prepared for that municipality.

17 Tax Agreements With Professional Sports Franchises

A municipality can only enter into tax agreements with operators of public utilities or of linear property that occupy municipal property. This would include property under the direction, control and management of the municipality.

One of the recommendations of the Non-Profit Tax Exemption Review Committee was to provide greater flexibility for municipalities to deal with unique tax situations by allowing municipalities to enter into tax agreements with professional sports franchises. However, the municipality would still be obliged to pay the provincial education levy. The agreement could indicate how the requisition was to be paid. There would be no restriction as to the land ownership status of the assessed person (i.e., community owned, privately owned).

It is proposed that a new provision be added following section 333 to allow a municipality to enter into an agreement allowing it to accept annual payments in place of taxes from an assessed person who occupies or manages property for the purpose of operating a professional sports franchise.

18 Property Tax Bylaw Errors and Omissions

The *MGA* prohibits a municipality from amending the tax rates set by the property tax bylaw after the tax notices are sent out to taxpayers. This provision prevents a municipality from correcting errors and omissions relating to tax rates.

Without a mechanism to correct an error after the notices have been mailed out, a municipality must carry through with collecting taxes based on erroneous rates.

It is proposed that section 354 be amended by adding a subsection (5) stating that where a municipality discovers an error or omission in the property tax bylaw, it may apply to the Minister to authorize corrective action.

19 Similar Exemptions for Community Associations and Agricultural Societies

The *MGA* makes a specific reference to property held by and used in connection with a society as defined under the *Agricultural Societies Act*. However, there is no such specific reference to community associations.

One of the recommendations of the Non-Profit Tax Exemption Review Committee was to ensure that agricultural societies and community associations are treated in a similar fashion.

It is proposed that section 362(i) be repealed and section 362(n) be amended to include a specific reference to community associations and agricultural societies.

It is also proposed that section 370 be amended to define community associations in regulations.

20 Qualifications Required of Non-Profit Organizations for Property Tax Exemptions

The Non-Profit Tax Exemption Review Committee recommended establishing a number of new exemption categories (for non-profit day cares, thrift stores, etc.) that would be subject to a number of qualifications.

The *MGA* allows the Minister to make regulations respecting tax exemptions for non-profit organizations. These regulations may contain qualifications. However, the placement of the word "qualifications" in the sections referring to such regulations is such that it could be interpreted to mean that the additional properties that would be described in the regulation would not necessarily meet the qualifications recommended by the Committee.

One of the recommendations of the Non-Profit Tax Exemption Review Committee was to provide the authority in the legislation for municipalities to utilize the qualifications for exemption or cancellation of an exemption.

It is proposed that sections 362(n) and 370(c) be amended so that other properties described in the regulations are subject to the qualifications and conditions in the regulations.

It is also proposed that section 362 be amended to allow a municipality to cancel a tax exemption by bylaw.

21 Municipal Seed Cleaning Plants

Prior to June, 1997, municipal seed cleaning plants were exempted from taxation pursuant to section 362(p).

When the *Agricultural Service Board Act* was amended in 1997, a consequential amendment made to the *MGA* resulted in the repeal of the exemption provision for municipal seed cleaning plants. As a result, municipal seed cleaning plants became taxable.

It is proposed that section 362 be amended to reinstate the former exemption provisions for municipal seed cleaning plants.

22 Exemption for Certain Gaming and Licenced Premises

The *MGA* allows for a tax exemption for Class C liquor licences in facilities held by certain non-profit organizations.

Amendments to the *Gaming and Liquor Act* and its regulations changed some terminology which had the effect of making infrequent activities such as weddings or occasional bingos, etc., which were authorized by permit and not licences, subject to property tax. As this was not the intent, an amendment to the *MGA* is required.

One of the recommendations of the Non-Profit Tax Exemption Review Committee is to add facilities that would be exempt in the regulation dealing with the tax status of licenced premises for non-profit organizations. A legislative amendment is required to implement this recommendation.

It is proposed that section 365(2) be amended by replacing the reference to "362(n)(ii) and (iii)" with "362(n)".

It is also proposed that sections 365(2) and 370 be amended by deleting the word "liquor."

23 Exemption from Business Tax

A business tax bylaw requires assessments of businesses operating in the municipality to be prepared and recorded on a business assessment roll. This bylaw may specify classes of businesses that are exempt from taxation.

It is the recommendation of the Non-Profit Tax Exemption Review Committee that a business activity operated by a non-profit organization in a facility that is exempt from property tax should be exempt from business tax.

It is proposed that a new provision be added following section 374 to allow a municipality to not prepare an assessment for any business in a class of business that is exempt from taxation under the business tax bylaw where the property is held and operated by a non-profit organization and the funds raised are used towards the operational or capital costs of the facility.

It is also proposed that section 375 be amended to allow a municipality to exempt from business tax any business held and operated by a non-profit organization that is exempt from taxation under section 362(n).

24 Remedial Costs Relating to Contaminated Tax Recovery Parcels

The *MGA* specifies in what order the proceeds from a public auction of tax arrears lands are to be distributed. The proceeds must first be used to pay any remedial costs relating to the parcel. Remedial costs are defined as "expenses incurred to perform work under an environmental protection order issued under the *Environmental Protection and Enhancement Act*." The intent of this provision was to identify remedial costs as expenses incurred by the Province, not a third party or landowner.

Alberta Environmental Protection has identified some concerns with the definition of "remedial costs." The definition does not identify who does the work. This could be interpreted to mean that a polluter in the first instance whose land ends up in tax recovery could recover expenses. In addition, the provision appears to be limited to expenses incurred for work only (i.e. undertakings or labour) and not all costs associated with the cleanup of the property.

It is proposed that section 410(c.1) be amended to define remedial costs as "all expenses incurred by the Government of Alberta to perform work under an environmental protection order or an enforcement order issued under the* Environmental Protection and Enhancement Act.*"

25 Collection of Rents to Pay Tax Arrears

Generally, property taxes on taxable land and improvements are payable by the assessed person (landowner or the person holding a lease, licence or permit).

A number of municipalities have encountered problems where the property tax is outstanding on land that is leased from the Crown or a municipality, is part of a railway right of way or station grounds, is part of an irrigation or drainage works, or is held from a regional airports authority. For these properties, the assessed person is the lease, licence, or permit holder, not the landowner.

If a lease (or licence or permit) holder's property taxes are in arrears, the municipality cannot take possession of the property. The *MGA* does not provide that any rents being paid to the assessed person be redirected to the municipality nor does it allow a caveat to be registered against the property. Suing for judgment is not an effective alternative means of collecting these taxes because it is a costly and lengthy exercise.

For constitutional reasons, a proposed amendment cannot cover any properties leased from the Crown in right of Canada.

It is proposed that a new provision be added following section 416 to allow municipalities to collect or seize rents to recover unpaid property taxes owed by tenants on land held under a lease, licence or permit from another municipality, a railway, an irrigation or drainage district, or a regional airports authority.

It is also proposed that a new provision be added to reflect that where a parcel of land is held under lease, licence or permit from the Crown in right of Alberta:

a) the Province will report on a quarterly basis to affected municipalities any changes in status regarding lease type or lease holder, and

b) the municipality will report to the Province when a lease is in tax arrears.

26 Utility Liens on Title of Tax Recovery Lands

Under the *MGA*, a person who purchases tax recovery land at a public auction acquires the land free of all encumbrances except for the following:

- encumbrances arising from claims of the Crown in right of Canada,
- irrigation or drainage debentures,
- registered easements and instruments registered pursuant to section 72 of the *Land Titles Act*, and
- right of entry orders as defined in the *Surface Rights Act* registered under the *Land Titles Act*.

The specified exceptions do not include liens filed under the *Rural Utilities Act* when the Province has guaranteed loans to rural utilities associations.

The provisions of the *Rural Utilities Act* take precedence over the *MGA* provisions. As a result, the liens in question are not removed from tax recovery land when it is sold or transferred to a municipality after 15 years. Municipalities have been advised of the situation but the sale of tax recovery land on which there is a lien remains a problem.

***It is proposed that sections 423(1), 424(3), and 428.2(4) be amended to refer to the liens under section 36 of the* Rural Utilities Act.**

27 Electrification Loan Liens on Title of Tax Recovery Lands

Under the *MGA*, a person who purchases tax recovery land at a public auction acquires the land free of all encumbrances except for the following:

- encumbrances arising from claims of the Crown in right of Canada;
- irrigation or drainage debentures,
- registered easements and instruments registered pursuant to section 72 of the *Land Titles Act*, and
- right of entry orders as defined in the *Surface Rights Act* registered under the *Land Titles Act*.

The specified exceptions do not include liens filed under the *Rural Electrification Loan Act* when the loan has been guaranteed by the Province.

The provisions of the *Rural Electrification Loan Act* take precedence over the *MGA* provisions. As a result, the liens in question are not removed from tax recovery land when it is sold or transferred to a municipality after 15 years.

***It is proposed that sections 423(1), 424(3) and 428.2(4) be amended to refer to the liens under section 15 of the* Rural Electrification Loan Act.**

28 Adding Costs to the Tax Roll

The previous *MGA* specifically empowered a council to pass bylaws providing for the clearance of snow and ice from sidewalks. When the owner or occupant failed to pay the associated expenses for the clearance, the expenses could be charged against the property and would be recovered in the same manner as other taxes.

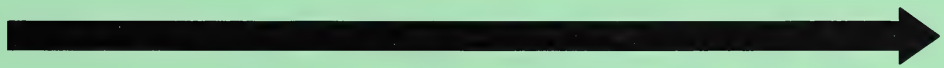
The current *MGA* provides a municipality with general authority to pass bylaws requiring owners to keep their sidewalks clear of snow and ice. The penalty for non-compliance can also be stipulated by bylaw. However, a council does not have the authority to add unpaid costs of sidewalk clearance to the tax roll. Any amount owed would have to be collected by civil action. A civil action to recover unpaid expenses could be time-consuming and costly.

It is proposed that section 553 be amended to include the unpaid costs of snow and ice removal from sidewalks as a specific expense that can be added to the tax roll of a parcel of land.

Proposed Amendments

Relating to

Manufactured Homes



29 Terminology Change

Considerable consultation has taken place with respect to the review of the *MGA* provisions regarding mobile units (designated manufactured homes). The Manufactured Housing Committee, with representatives from the Alberta Urban Municipalities Association, the Alberta Association of Municipal Districts and Counties, the Manufactured Housing Association of Alberta and Saskatchewan, and Alberta Municipal Affairs, prepared a consultation paper that was forwarded to many stakeholders.

The Committee supported a request by the Manufactured Housing Association to replace the term "mobile unit" with "designated manufactured home" wherever it appears in the Act.

It is proposed that all references in the* MGA *to the terms "mobile unit" and "mobile home park" be replaced by the terms "designated manufactured home" and "manufactured home community" respectively.

30 Supplementary Assessment Bylaw

The *MGA* currently specifies that, in preparing a supplementary assessment bylaw relating to mobile units (designated manufactured homes), the municipality can only include those units located in a mobile home park (manufactured home community) and not mobile units (designated manufactured homes) located elsewhere.

This provision has created problems for municipalities when collecting taxes on units (homes) not located on such parks (communities).

It is proposed that section 313 be amended to allow a municipality to prepare a supplementary assessment bylaw that applies to all mobile units (designated manufactured homes) situated in the municipality, not just those located in mobile home parks (manufactured home communities).

31 Supplementary Assessments for Movements During The Year

Currently, in the preparation of supplementary assessments, mobile units (designated manufactured homes) that are moved from one municipality to another can only be taxed for part of the year.

A proposed amendment would allow each municipality to collect the taxes owing for that length of time the mobile unit (designated manufactured home) is located within the respective municipality.

It is proposed that section 314 be amended to allow for the preparation of a supplementary assessment of a mobile unit (designated manufactured home) that is moved into the municipality during the year.

32 Specific Tax Bylaws for Monthly Payments

Currently, the *MGA* enables a municipality to pass a property tax bylaw to allow taxes owing on a mobile unit (designated manufactured home) to be paid in instalments.

However, if the property tax bylaw is not approved until April or May, the instalment payments would not start until May or June, rather than in January as is currently the practice for other properties.

It is proposed that section 357 be amended to allow a municipality to pass a bylaw, separate from the property tax bylaw, that provides for compulsory property tax instalment payments on mobile units (designated manufactured homes).

33 Tax Recovery Process for Mobile Home Units (Manufactured Homes)

The Manufactured Housing Committee has recently completed a review of, and published a series of recommendations relating to, mobile units (designated manufactured homes) in Alberta. The following four proposals are based on that consultation process:

A. Tax Recovery Process

Currently, the provisions in the *MGA* relating to tax recovery on mobile units (designated manufactured homes) are cumbersome to administer.

It is proposed that new provisions be added following section 436 to provide for a tax recovery process for mobile units (designated manufactured homes) similar to the tax recovery process relating to land.

B. Reporting Requirements

A number of municipalities have requested that a reporting requirement be included in the *MGA*, requiring owners of mobile home parks (manufactured home communities) to provide timely information on the ownership and movement of such homes.

It is proposed that new provisions be added to enable a municipality to pass a bylaw requiring all mobile home park (manufactured home community) owners in the municipality to report on the ownership and movement of all mobile units (designated manufactured homes) on dates specified by the municipality.

C. Definitions

No definitions currently exist in the *MGA* to reflect the proposed tax recovery process for mobile units (designated manufactured homes).

It is proposed that definitions be added such as, for example, "designated manufactured home," "manufactured home," "manufactured home community," "mobile home," "modular home," "travel trailer," and "tax recovery lien".

D. Assessed Person

The *MGA* currently allows a municipality to pass a bylaw making the owner of a mobile home park (manufactured home community), rather than the individual unit owner, the assessed person for tax purposes.

Mobile units (designated manufactured homes) located outside a mobile home park (manufactured home community) are treated like any other residential dwelling for assessment purposes.

Proposed amendments would allow municipalities to identify in the bylaw the criteria used to designate the assessed person and to state that it could apply to one or more mobile home parks (manufactured home communities).

It is proposed that section 304(6) be amended:

a) to require the municipality to indicate in the bylaw referred to in section 304(1)(j) the criteria used to designate the assessed person, and

b) to allow the bylaw to apply to one or more mobile home parks (manufactured home communities).

Proposed Amendments

Relating to

Assessment Appeals

34 Obtain Information Required To Prepare Assessments

The *MGA* requires an assessed person to provide, on the request of the assessor, any information necessary to prepare an assessment or determine if property is to be assessed. If unsuccessful, the *MGA* allows an assessor to apply by originating notice to the Court of Queen's Bench for an order requiring a person to provide the requested information. However, this approach does not result in obtaining the required information in a timely manner. When attempts to obtain the required information are unsuccessful, the assessor must prepare the assessment using the information available.

A proposed amendment would allow the assessor to make an accurate and timely assessment and save both time and costs related to the preparation of assessments and to complaints.

It is proposed that section 295 be amended to state that unless the requested information has been provided by February 15 of the year following the assessment year, a complaint cannot be made regarding that assessment.

35 Clarify Notice Provisions

For assessment complaints before an assessment review board and hearings before the Municipal Government Board, the *MGA* requires that a notice be sent to either the complainant or the administrator of the Municipal Government Board as the case may be.

Certain timelines are triggered when the notice is sent. It is unclear in either case when the timeline begins because of different interpretations of the word "sent." Various interpretations have included postmarked, received, fax-dated, and courier accepted. Elsewhere in the *MGA*, the term "filed" is used.

It is proposed that sections 309(1), 334(1), 461(1) and 491(1) be amended to replace the word "sent to" with "filed with".

36 Panel of One for Certain Assessment Appeal Hearings

A panel of an assessment review board or the Municipal Government Board must consist of at least three members. For hearings of a minor or routine nature, it would be more efficient to have a panel of one member.

It is proposed that sections 454 and 487 be amended to allow assessment review boards and the Municipal Government Board to establish a panel of one subject to regulations established by the Minister.

37 Reduce Minimum 14 Day Period

Both an assessment review board and the Municipal Government Board must provide at least 14 days notice of an assessment appeal hearing to the municipality, the complainant (in the case of an assessment review board) or the person who sent the written statement (in the case of the Municipal Government Board), and any assessed person who is affected. There is no legislative authority to reduce that timeline.

It is proposed that section 462 be amended to allow an assessment review board to reduce the minimum 14 days notice provision with the consent of all parties concerned.

It is also proposed that section 494 be amended to provide a complementary amendment relating to the Municipal Government Board.

38 Complaints Dismissed by an Assessment Review Board

The *MGA* specifies the manner and conditions under which an assessment review board may make its decisions. These provisions do not include the situation where the complainant does not provide information regarding why the assessment or tax notice is incorrect.

It is proposed to amend section 467(1) to allow an assessment review board to dismiss a complaint where the complainant did not explain why the assessment or tax notice was incorrect.

39 Evidentiary Matters

Appellants frequently do not submit all their evidence to an assessment review board since a subsequent appeal to the Municipal Government Board is available to them.

The *Evidentiary Matters Regulation (Alberta Regulation 121/97)* was enacted to address the administrative difficulties the Municipal Government Board is encountering. That *Regulation* ensures that all pertinent evidence is heard at the assessment review board level, rather than being introduced at the Municipal Government Board for the first time.

It is proposed that new provisions be added:

a) following section 484, in the case of an assessment review board, to allow the Minister to establish regulations regarding:

- ***the jurisdiction,***
- ***procedures,***
- ***authority and manner to hear complaints, and***
- ***any other matter relating to an assessment review board;***

b) following section 527, regarding hearings of the Municipal Government Board on decisions of an assessment review board, to allow the Minister to establish regulations regarding:

- ***procedures,***
- ***functions,***
- ***authority and manner to hear appeals,***
- ***any remedies that may be granted, and***
- ***any other matter relating to the Municipal Government Board.***

40 Linear Assessment Complaints

The *MGA* is silent on who can make a complaint about a linear assessment.

It is proposed that section 492 be amended to specify that the following can make a complaint about linear property:

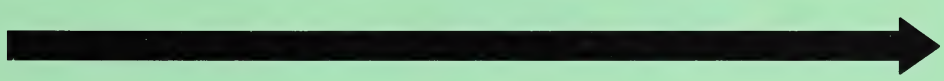
a) an assessed person, and

b) a municipality if the complaint relates to a property that is within the boundaries of the municipality.

Proposed Amendments

Relating to

Planning and Development



41 Environmental Reserve Easements

As part of the subdivision approval process, the *MGA* allows a subdivision authority, with the agreement of the landowner, to register a caveat giving the municipality an environmental reserve easement instead of providing the land as environmental reserve.

Caveats of this nature may be subject to challenge and removal.

It is proposed that section 664 be amended:

- ***a) to remove the reference to "caveat" and replace it with "easement", and***
- ***b) to clarify that the easement runs with the land and is not subject to common law requirements for easements.***

42 Regulation Regarding Placing Caveats Against Titles

The *MGA* allows the Lieutenant Governor in Council to make regulations respecting planning matters. There are specific instances where lands subject to subdivision and development have certain physical and environmental limitations of which the buyer should be aware.

Placing a caveat on the title would help address these situations. However, there is no authority to ensure that the caveat would not be discharged in these circumstances.

It is proposed that section 694 be amended:

- ***a) to allow the Lieutenant Governor in Council to make regulations where the Natural Resources Conservation Board, Energy Resources Conservation Board, or Alberta Energy and Utilities Board have approved a development,***
- ***b) to authorize the registration of caveats on each title serving notice that the area is subject to a specific physical or environmental limitation, and***
- ***c) to specify that the caveat runs with the land.***

43 Municipal Liability Relating to Specific Development Limitations

Municipal liability is addressed in Part 13 but does not include matters relating to certain physical and environmental limitations that can affect subdivision and development. In 1992, the Natural Resources Conservation Board conditionally approved a development proposal for a major residential, recreational and tourism project. The development is unique in respect of the physical and environmental considerations involved with the area.

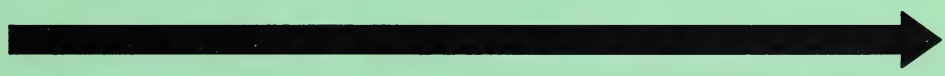
The *Canmore Exemption From Liability Regulation (Alberta Regulation 113/97)* was enacted to address this issue.

It is proposed that section 694 be amended to allow the Lieutenant Governor in Council to make regulations that apply to the Town of Canmore with respect to municipal liability and underground mining relating to a decision allowing subdivision and development.

Proposed Amendments

Relating to

Miscellaneous Items



44 Provide the Minister With Copies of Information

The *MGA* allows the Minister to direct a municipality to provide a copy of information or documents in the municipality's possession to the Minister. However, a similar provision does not exist with respect to regional services commissions.

It is proposed that a new section be added following section 602.38 to allow the Minister to direct that a regional services commission provide a copy of any document or other information in its possession to the Minister within the time specified and without charge.

45 Application of The Freedom of Information and Protection of Privacy (FOIP) Act

A. FOIP Paramountcy

Section 738 repeals those provisions of the *MGA* governing the disclosure of municipal and local authority information in favour of the *FOIP Act* upon the proclamation of section 1(1)(p)(vi) of that *Act*.

The *FOIP Amendment Act, 1997*, brings section 1(1)(p)(vi) of the original *FOIP Act* into force, and allows for the phased application of FOIP rules to municipalities, improvement districts and regional service commissions. However, when originally drafted, section 738 did not contemplate any such phase-in of FOIP rules.

It is proposed that section 738 be amended to reflect the paramountcy of section 1(1)(p)(vi) of the* FOIP Act *and the phased implementation of FOIP rules over local government bodies.

B. Other FOIP Related Amendments

Some provisions of the *MGA*, such as those relating to salary disclosure, access to assessment information, and in-camera meetings may be inconsistent with the FOIP legislation when FOIP becomes applicable to local government bodies.

It is proposed that section 738 be amended:

a) to refer to the exceptions to disclosure in Division 2 of Part 1 of the* FOIP Act *in sections 197(2) and 217(3), and

b) to allow sections 197(2), 217(3) and 299 to prevail over FOIP rules.

The proposed amendment would be effective October 1, 1999, the date the *FOIP Act* applies to local government bodies.